

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
Attorney Docket No. 006955.00001**

In re U.S. Patent Application of Seppala et al.)	
)	
Application No. 10/029,972)	Group Art Unit: 2618
)	
Filed: December 31, 2001)	Examiner: Nhan T. Le
)	
For: Mobile Phone and Method of Updating Radio Channel Settings)	Confirmation No. 5444

BRIEF ON APPEAL

MS: Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §41.37, Appellant submits this Appeal Brief to the Board of Patent Appeals and Interferences in response to the Final Rejection mailed on September 25, 2006 and the Notice of Appeal filed February 23, 2007. A request for a three month extension and the associated fee are being submitted in conjunction with this Appeal Brief. The Commissioner is authorized to charge any additional fees owed or credit any overpayment of fees to Deposit Account No. 19-0733.

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I. Real Party in Interest

The real party in interest is Nokia Corp., the owner of the entire right, title and interest in and to the subject application.

II. Related Appeals and Interferences

There are no known related appeals or interferences to the subject appeal.

III. Status of the Claims

Claims 18-35, which are involved in the appeal, stand finally rejected by a Final Office Action mailed September 25, 2006 and are found in the Appendix. No claim is allowed.

IV. Status of Amendments

No after final amendments were requested or are pending.

V. Summary of Claimed Subject Matter

In making reference herein to various portions of the specification and drawings in order to explain the claimed invention (as required by 37 CFR §41.37(c)(1)(v)), Applicants do not intend to limit the claims. All references to the specification and drawings are illustrative unless otherwise explicitly stated.

Aspects of the invention which relate to claims 18-35 are directed toward a mobile phone device and method for updating radio channel settings of a mobile phone via mobile phone network. Claims 18 and 26 are independent claims.

Independent claim 18 which is directed toward a mobile phone (1) (*see* substitute specification pg. 11, lns. 16-23 and Fig. 1) recites the claimed feature of “a receiver for receiving messages transmitted via a mobile phone network.” *See* substitute specification, pg. 3, lns. 9-11 and pg. 12 lns. 22-25. An embodiment of the messages is described in the substitute specification on at least pg. 6, lns. 6-14 (eg. Text messages, such as SMS-messages). Claim 18 further recites “a broadband AM and/or FM radio signal receiver” (*see* substitute specification pg. 13, lns. 7-16) “for determining a plurality of radio channel settings of a broadband AM and/or FM radio station based on at least one of the received messages” and an embodiment of this feature is described in the substitute specification on pg. 6, lns. 15-20. Claim 18 further recites “a radio channel memory” (*see* substitute specification pg. 4, lns. 1-9) “for storing the plurality of radio channel settings of a broadband AM and/or FM radio station received in the messages with the receiver” and an embodiment of this feature is described in the substitute specification on pg. 8, lns. 22-24. Claim 18 further recites “a storage for storing a radio channel settings contained in a received message transmitted via the mobile phone network in the radio channel memory” and an embodiment of this feature is described in the substitute specification on pg. 2, lns. 6-9.

Independent claim 26 is directed to a method of updating radio channel settings of a mobile phone. Claim 26 includes the feature of a receiver (*see* substitute specification, pg. 3, lns. 9-11 and pg. 12 lns. 22-25) “for receiving messages via a mobile phone network” and an embodiment of this feature is described in the substitute specification on at least pg. 6, lns. 6-14 (eg. Text messages, such as SMS-messages). Claim 26 further includes the feature of a “broadband AM and/or FM radio receiver” (*see* substitute specification pg. 13, lns. 7-16) which receives messages by “sending a message containing a radio channel setting of a broadband AM and/or FM radio station via the mobile phone network to the mobile phone” and an embodiment of this feature is described in the substitute specification on pg. 3, lns. 17-19 and pg. 6, lns. 15-20.

VI. Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 18 and 26 were properly rejected under 35 USC §103(a) as being unpatentable over Tajima, et. al., U.S. Patent No. 6,526,284 ("Tajimi") in view of Sharp, et. al., U.S. Patent No. 6,526,284 ("Sharp").

2. Whether claim 22 was properly rejected under 35 USC §103(a) as being unpatentable over Tajima in view of Sharp, Konisi and further in view of Park, U.S. Patent No. 6,408,188 ("Park").

The rejections of claims 18-35 are being appealed.

VII. Arguments

The discussion below, unless otherwise noted, addresses the rejection of independent claims 18 and 26, as well as dependent claim 22. Applicants respectfully request that the rejections of the remaining dependent claims 19-21, 23-25, and 27-35 be reversed for at least the reasons supporting reversal of the independent claims from which they depend and for the additional features recited therein.

A. The feature “a receiver for receiving messages” transmitted “via mobile phone network” of independent claims 18 and 26 are not disclosed by Tajima or Sharp.

As noted above, independent claims 18 and 26 stand rejected under 35 U.S.C. under 35 USC §103(a) as being unpatentable over Tajima in view of Sharp. In particular, independent claim 18 includes the feature of “a receiver for receiving messages transmitted via a mobile phone network.” Similarly, independent claim 26 includes the claimed feature of “a receiver for receiving messages via a mobile phone network.”

1. The Examiner admits that Tajima fails to teach the recited claimed feature.

As an initial matter, the Examiner in the Final Office Action dated September 25, 2006 states that “Tajima fails to teach wherein the receiver for receiving messages transmitted via a mobile network.” (Pg. 2). Independent claim 18 includes the feature of “receiving messages transmitted via a mobile phone network.” (*Emphasis added*). Furthermore, the Examiner on page 8 of the Final Office Action states:

As to claim 18, Applicant argument that Tajima reference fails to disclose wherein the device with any capability of being used as a two-way communication device. The examiner agrees with applicant.

Therefore, as may be seen from the above, Tajima does not disclose the claimed feature of “receiving messages transmitted via a mobile phone network.” However, as will be seen below, Sharp does not make up for the deficiencies in Tajima.

2. Sharp fails to make-up for the deficiencies in Tajima.

As state above, independent claims 18 and 26 include the claimed feature of “receiving messages” transmitted “via a mobile phone network.” The Final Office Action with respect to at least independent claims 18 and 26 states:

Sharp teaches the mobile receiver for receiving messages transmitted via a mobile network (see col. 8, lns. 1-24, col. 10, lns. 57-67, col. 11, lns. 1-13).

The Final Office Action’s recitation of a broadcast mobile network in Sharp does not disclose Applicants claimed mobile phone network as claimed in both independent claims 18 and 26. Sharp lacks any disclosure for receiving messages transmitted “via a mobile phone network.” Sharp discloses a server and a database storing geographic information such as map images, weather information, traffic congestion, etc (col. 5, lns. 59-65). The geographic information is routed through a remote computer (see, e.g., col. 7, lns. 4-15) and to transmitters 50 that broadcast the geographic information to receiving devices 70 (see, e.g., col. 10, lns. 41-45). The system of Sharp is implemented in a public broadcast network, such as a Digital Audio Broadcasting (DAB) network or a standard analogue FM network such as used for broadcasting Radio Data Services (RDS) information. (Col. 5, lns. 41-45). Sharp does not disclose transmission of messages over a mobile phone network. The geographic information of Sharp is broadcasted via a radio network which does not enable mobile phones to receive messages including radio channel settings “transmitted via a mobile phone network.” Therefore, the combination of Tajima and Sharp fails at least to disclose this claimed feature of independent claims 18 and 26.

B. Tajima and Sharp are not properly combinable

With respect to independent claims 18 and 26, the Final Office Action asserts that one of ordinary skill in the art would have been motivated to combine Tajima with Sharp “to provide a quick communication feature for the mobile users.” This alleged “motivation” fails to bear any relevance to Tajima, Sharp, or the instant application. According to the Final Office Action, one of ordinary skill in the art, given the Tajima disclosure of an FM receiver would have been motivated to combine the disclosure of Sharp of a transmission system for broadcasting geographic information such as map images with the FM receiver of Tajima in order to “provide a quick communication feature for mobile users.” Applicants submit that this reasoning does not make sense because broadcasting geographic information to the FM receiver would not result in a “quick communication feature.” In fact, broadcasting geographic information is unrelated to whether the “communication feature” is “quick” or “not quick.”

In addition, Applicants submit that it does not make sense to broadcast geographic map images of Sharp to the FM receiver of Tajima. The FM receiver of Tajima receives audio information (FM signals) and is not disclosed as containing a means for displaying (graphical) map images. One of ordinary skill in the art would not have been motivated to broadcast information (of Sharp) to the Tajima FM receiver if the Tajima FM receiver is incapable of receiving or processing that broadcast information. It is not even clear how such a system would work. Furthermore, the Tajima FM receiver receives data over an FM broadcast. The Final Office Action has not provided an apparent reason that would have prompted a person of ordinary skill in the art to combine the prior art in the manner claimed.

C. Tajima, Sharp, Konisi and Park are not properly combinable

With respect to dependent claim 22, the Final Office Action states that the “combination of Tajima, Sharp and Konisi fails to teach a mobile phone, further comprising a transmitter which sends a message containing a radio channel settings.” Pg 5. Applicants agree with the Examiner. However, the Final Office Action asserts that one of ordinary skill in the art would have been motivated to combine Park with Tajima, Sharp and Konisi “so that the signals from the signal processor can be modulated into the radio signals.” This alleged “motivation” fails to bear any relevance to Tajima, Sharp, Konisi or the instant application.

Park discloses a method of sending a short message to a plurality of receivers at a predetermined time using a single send command in a digital phone. The problem addressed in Park is one of sending a short message simultaneously to a plurality of subscribers. Park is not concerned with providing radio channel settings to mobile phones used in changing locations. The Office Action has not provided a reason why one of ordinary skill in the art would combine Park, with Tajima, Sharp and Konisi in the manner claimed. Thus, Park is not properly combinable with Tajima, Sharp and Konisi to form an obvious rejection and the rejection of dependent claim 22 is improper.

Respectfully submitted,

Date: July 23, 2007

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CLAIMS APPENDIX

1-17. (Cancelled)

18. A mobile phone comprising a receiver for receiving messages transmitted via a mobile phone network, a broadband AM and/or FM radio signal receiver for determining a plurality of radio channel settings of a broadband AM and/or FM radio station based on at least one of the received messages, a radio channel memory for storing the plurality of radio channel settings of a broadband AM and/or FM radio station received in the messages with the receiver, and a storage for storing a radio channel setting contained in a received message transmitted via the mobile phone network in the radio channel memory.

19. A mobile phone according to claim 18, further comprising a detector for detecting that a message contains a radio channel setting.

20. A mobile phone according to claim 19, wherein a menu of a mobile phone user interface is activated when a message containing a radio channel setting is received, the menu prompting the user to choose to either listen to the received radio channel, save the received radio channel setting, view details of the received radio channel setting, or discard the channel setting.

21. A mobile phone according to claim 20, wherein a further menu of the user interface is activated when the user has chosen to save the radio channel setting, the further menu requesting the user to select one of the channel location numbers of the radio channel memory.

22. A mobile phone according to claim 18, further comprising a transmitter which sends a message containing a radio channel setting.

23. A mobile phone according to claim 18, wherein the radio channel setting in the message comprises a radio channel frequency, and/or radio channel name and/or radio program starting date and time.

24. A mobile phone according to claim 19, wherein the detector for detecting that a message contains a radio channel setting determines a type of content of the message from a user data header of the message.

25. A mobile phone according to claim 18, wherein the receiver receives messages containing radio channel frequency and/or name and time and date of a radio program, the mobile telephone further comprising a control which activates the broadband AM and/or FM radio signal receiver and tunes the radio signal receiver to a received channel when the time and date of the received radio program has been reached.

26. A method of updating radio channel settings of a mobile phone comprising a receiver for receiving messages via a mobile phone network, and a broadband AM and/or FM radio receiver which receives messages, by sending a message containing a radio channel setting of a broadband AM and/or FM radio station via the mobile phone network to the mobile phone.

27. A method according to claim 26, wherein the mobile phone comprises a radio channel memory for storing a plurality of radio channel settings, further comprising the step of storing a radio channel contained in the message to the radio channel memory.

28. A method according to claim 26, wherein the radio channel settings comprise at least the radio channel frequency.

29. A method according to claim 26, comprising the steps of:
assigning radio channel settings to different geographical areas,
determining which geographical area the mobile phone is located, and
sending a message to the mobile phone containing at least one radio channel setting assigned to the geographical area in which the mobile phone is located.

30. A method according to claim 29, wherein the message containing at least one radio channel setting assigned to the geographical location in which the phone is located, is sent when the mobile phone has moved from one geographical area to another or when the mobile phone logs on to the mobile phone network in the geographical area.

31. A method according to claim 26, wherein the broadband AM and/or FM radio receiver is automatically tuned to the last radio channel setting that is received.

32. A method according to claim 26, wherein the radio channel setting includes a date and time, and the broadband AM and/or FM radio receiver is automatically switched on and tuned to the received radio channel setting.

33. A method according to claim 26, wherein a message requesting a radio station setting or settings is sent to a server and a message containing the requested radio station setting or settings is returned by the server.

34. A method according to claim 33, wherein a message requesting the radio station setting or settings for a geographical area or a number of geographical areas along a route is sent to a server and the message containing the requested radio station setting or settings is returned by the server.

35. A method in accordance with claim 28, wherein the radio channel settings also include a radio station name and/or radio program type.

EVIDENCE APPENDIX

-- NONE --

RELATED PROCEEDINGS APPENDIX

-- NONE --